

Rules of Department of Revenue

Division 10—Director of Revenue

Chapter 10—Financial Institutions

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Title 12—DEPARTMENT OF REVENUE

Division 10—Director of Revenue Chapter 10—Financial Institutions

12 CSR 10-10.010 Sales Tax/Bank Tax Credit

PURPOSE: This rule clarifies that banks are not entitled credit against the bank tax for sales and use taxes paid on purchases of tangible personal property.

(1) Amounts paid by banks as purchasers to vendors pursuant to section 144.060, RSMo are not creditable against the bank tax imposed under section 148.030, RSMo.

(2) Amounts paid by banks as purchasers pursuant to section 144.610, RSMo are not creditable against the bank tax imposed under section 148.030, RSMo.

(3) This rule shall become effective and apply to tax years beginning on or after January 1, 1984.

AUTHORITY: section 148.100, RSMo 1986. Original rule filed March 11, 1983, effective Aug. 11, 1983.*

**Original authority: 148.100, RSMo 1945.*

12 CSR 10-10.020 Allocation of Bank Tax

PURPOSE: This rule provides a uniform manner for financial institutions to apportion their bank tax among the main bank and the branches. This uniform treatment assures consistent disbursements to the political subdivisions of Missouri.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the rule has been filed with the secretary of state. The entire text of the rule may be found at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) The definitions of terms used in this rule are as follows:

(A) Taxable year shall mean the calendar year in which the bank tax is required to be filed and the bank tax is payable;

(B) Income period shall mean the calendar year next preceding the taxable year;

(C) Facility shall have the meaning ascribed to it in sections 362.107 and 362.108, RSMo; and

(D) FDIC Report shall mean the summary of deposits filed with the Federal Deposit Insurance Corporation (FDIC) during the income period pursuant to the *Code of Federal Regulations* 12 CFR 304.3.(q).

(2) The division of the bank tax between the main banking house and facility shall be computed as follows:

(A) General Rule. If a bank maintains or operates one (1) or more facilities, then the bank tax liability of the bank for the taxable year shall be divided among the main banking house and each of the facilities by application of a fraction, the numerator of which is the amount of deposits reported for the main banking house or the facility, in the FDIC Report, and the denominator is the sum of the deposits reported for the bank's main banking house and all of its facilities in the same FDIC Report;

(B) Exception to the General Rule. Where a main banking house or facility is chartered or authorized after the cutoff date for the FDIC Report, records shall be maintained on a calendar quarter basis that indicate the amount of deposits in the new main banking house or facility as of the last day of the calendar quarter in the income period, provided the new banking house or facility was in existence for any part of that calendar quarter. To prorate the deposits, they shall be added together and divided by four (4). The resulting figure shall be the deposits for the new main banking house or facility. The bank tax liability for the taxable year shall be divided among the new banking house or new facility by the application of a fraction, the numerator of which is the amount of deposit for the new main banking house or the new facility as determined in this subsection and the denominator shall be the sum of deposit determined for the denominator under subsection (2)(A) plus the deposits reported for all of each bank's new main banking houses or facilities subject to this subsection; and

(C) Rule for Automated Teller Machines. Automated teller machines (ATMs) that are authorized and operate as facilities are not subject to the FDIC Report. Therefore, deposits through ATMs shall be allocated as follows:

1. If the ATM operates as a facility before the cutoff date for the FDIC Report, the deposit will be hidden in the FDIC Report for all bank locations. The ATM operating as a facility shall report its deposit separately as of the cutoff date for the FDIC Report. The tax liability for the taxable year shall be divided between the ATM operated as a facility and the main banking house and all other facilities by the application of a fraction, the

numerator of which is the amount of deposit the bank has separately calculated for the ATM operated as a facility in the income period and the denominator is the sum of deposits determined for the denominator under subsections (2)(A) and (B). However, this exception requires that the deposit representing the main banking house be reduced by an amount equal to the deposit reported for the ATM operating as a facility;

2. If the ATM operates as a facility only after the cutoff date for the FDIC Report, then the deposit of the facility shall be reported in the same manner deposits are reported for new facilities under subsection (2)(B);

3. If a bank deposit is reported through the use of a thrift, credit union or proprietary ATM system (which the bank does not own or lease), the deposit shall be considered a part of the main banking house deposits; and

4. ATMs that operate as a part of the manned facility or the main banking house shall not be separately reported.

AUTHORITY: section 148.100, RSMo 1986. Original rule filed Oct. 15, 1984, effective Feb. 11, 1985.*

**Original authority: 148.100, RSMo 1945.*

12 CSR 10-10.030 Statute of Limitations for Bank Tax

PURPOSE: This rule establishes a statute of limitations for the assessment of Bank Tax as set out in Chapter 148, RSMo.

(1) Except as otherwise provided in this rule, an assessment shall be mailed to the taxpayer within three (3) years after the return was filed. No deficiency shall be assessed or collected with respect to the year for which the return was filed unless the notice is mailed within the three (3)-year period or the period otherwise fixed.

(2) If a taxpayer omits from its return an amount of income that is properly includable in its gross income which is in excess of twenty-five percent (25%) of the amount of gross income stated in its return, an assessment may be mailed to the taxpayer within six (6) years after the return was filed. For purposes of this rule in determining the amount omitted, there shall not be taken into account any amount which is omitted in the return if the amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the director of revenue of the nature and amount of the item.

(3) If no return is filed or a false or fraudulent return is filed with intent to evade the tax, an assessment may be mailed to the taxpayer at any time.

(4) If a taxpayer fails to report a change or correction in federal taxable income which would increase its tax liability under Chapter 148, RSMo, an assessment may be mailed to the taxpayer within one (1) year after the Business Tax Bureau or Field Audit Bureau of the Department of Revenue shall become aware of the change or correction. A notice under this section shall be limited to the effects of the change or correction.

(5) Where, before the expiration of the time prescribed in this rule for the assessment of a deficiency, both the director of revenue and the taxpayer shall have consented in writing to its assessment after that time, the deficiency may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed may be extended by subsequent agreement in writing made before the expiration of the period previously agreed upon.

(6) For purposes of this rule, a return filed before the last day prescribed by law or by a corresponding rule for the filing of that return shall be deemed to be filed on the last day. If a return for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, the return shall be deemed to be filed on April 15 of the succeeding calendar year.

AUTHORITY: sections 148.100, 148.200 and 148.700, RSMo 1986.* *Original rule filed July 11, 1985, effective Oct. 11, 1985.*

*Original authority: 148.100, RSMo 1945; 148.200, RSMo 1945 and 148.700, RSMo 1982.

12 CSR 10-10.040 Statute of Limitations for Credit Union and Savings and Loan Association Tax

PURPOSE: *This rule establishes a statute of limitations for the assessment of Credit Union and Savings and Loan Association Tax as set out in Chapter 148, RSMo.*

(1) Except as otherwise provided in this rule, an assessment shall be mailed to the taxpayer within three (3) years after the return was filed. No deficiency shall be assessed or collected with respect to the year for which the return was filed unless the notice is mailed within the three (3)-year period or the period otherwise fixed.

(2) If a taxpayer omits from its return an amount of income that is properly includable in its gross income which is in excess of twenty-five percent (25%) of the amount of gross income stated in its return, an assessment may be mailed to the taxpayer within six (6) years after the return was filed. For purposes of this rule, in determining the amount omitted, there shall not be taken into account any amount which is omitted in the return if the amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the director of revenue of the nature and amount of the item.

(3) If no return is filed or a false or fraudulent return is filed with intent to evade the tax, an assessment may be mailed to the taxpayer at any time.

(4) If a taxpayer fails to report a change or correction in federal taxable income which would increase its tax liability under Chapter 148, RSMo an assessment may be mailed to the taxpayer within one (1) year after the Business Tax Bureau or Field Audit Bureau of the Department of Revenue shall become aware of the change or correction. A notice under this section shall be limited to the effects of the change or correction.

(5) Where, before the expiration of the time prescribed in this rule for the assessment of a deficiency, both the director of revenue and the taxpayer shall have consented in writing to its assessment after that time, the deficiency may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed may be extended by subsequent agreement in writing made before the expiration of the period previously agreed upon.

(6) For purposes of this rule, a return filed before the last day prescribed by law or by a corresponding rule for the filing of that return shall be deemed to be filed on the last day. If a return for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, the return shall be deemed to be filed on April 15 of the succeeding calendar year.

AUTHORITY: sections 148.100, 148.200 and 148.700, RSMo 1986.* *Original rule filed July 11, 1985, effective Oct. 11, 1985.*

*Original authority: 148.100, RSMo 1945; 148.200, RSMo 1945 and 148.700, RSMo 1982.

12 CSR 10-10.050 Statute of Limitations for Credit Institutions Tax

PURPOSE: *This rule establishes a statute of limitations for the assessment of Credit Institutions Tax as set out in Chapter 148, RSMo.*

(1) Except as otherwise provided in this rule, an assessment shall be mailed to the taxpayer within three (3) years after the return was filed. No deficiency shall be assessed or collected with respect to the year for which the return was filed unless the notice is mailed within the three (3)-year period or the period otherwise fixed.

(2) If a taxpayer omits from its return an amount of income that is properly includable in its gross income which is in excess of twenty-five percent (25%) of the amount of gross income stated in its return, an assessment may be mailed to the taxpayer within six (6) years after the return was filed. For purposes of this rule, in determining the amount omitted, there shall not be taken into account any amount which is omitted in the return if the amount is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the director of revenue of the nature and amount of the item.

(3) If no return is filed or a false or fraudulent return is filed with intent to evade the tax, an assessment may be mailed to the taxpayer at any time.

(4) If a taxpayer fails to report a change or correction in federal taxable income which would increase its tax liability under Chapter 148, RSMo, an assessment may be mailed to the taxpayer within one (1) year after the Business Tax Bureau or Field Audit Bureau of the Department of Revenue shall become aware of the change or correction. A notice under this section shall be limited to the effects of the change or correction.

(5) Where, before the expiration of the time prescribed in this rule for the assessment of a deficiency, both the director of revenue and the taxpayer shall have consented in writing to its assessment after that time, the deficiency may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed may be extended by subsequent agreement in writing made before the expiration of the period previously agreed upon.

(6) For purposes of this rule, a return filed before the last day prescribed by law or by a

corresponding rule for the filing of that return, shall be deemed to be filed on the last day. If a return for any period ending with or within a calendar year is filed before April 15 of the succeeding calendar year, the return shall be deemed to be filed on April 15 of the succeeding calendar year.

AUTHORITY: sections 148.100, 148.200 and 148.700, RSMo 1986. Original rule filed July 11, 1985, effective Oct. 11, 1985.*

**Original authority: 148.100, RSMo 1945; 148.200, RSMo 1945 and 148.700, RSMo 1982.*

12 CSR 10-10.060 Multiple Assessments of Credit Unions and Savings and Loan Associations for a Single Year

PURPOSE: This rule clarifies that the director of revenue may issue multiple assessments against a taxpayer for a given period on separate issues.

(1) The director of revenue may issue multiple assessments against the taxpayer for a single taxable year pursuant to section 148.680, RSMo when the director determines, based on separate findings or evidence adduced at the hearing provided in section 148.680, RSMo that the correct amount of the tax is greater than that tax computed by the taxpayer. The director, upon making the determination, shall notify the taxpayer by certified mail. The director will state on each assessment the reason for which it is issued. The taxpayer may seek independent review of each determination of the director of revenue by the Administrative Hearing Commission.

(2) Example: The taxpayer files a return for the taxable year and remits an underpayment of the tax for the period. The director determines based on the return and payment that the correct amount of the tax is greater than that remitted by the taxpayer and issues an assessment for the underpayment. At a later date, an audit conducted by the Department of Revenue of the credit union or savings and loan reveals additional findings based on separate issues not associated with the underpayment and the director determines that the correct amount of the tax is greater than that previously computed and based on these findings issues a separate assessment for the same taxable year. The taxpayer may seek independent review of each assessment by the Administrative Hearing Commission. The first assessment generated will be for the amount of the underpayment and will contain the language underpayment as the basis for the assessment. The second assessment for the

same taxable period will be based on the audited findings and will contain the language additional audit findings as the basis for the assessment.

AUTHORITY: section 148.700, RSMo 1986. Original rule filed Sept. 16, 1985, effective Dec. 26, 1985.*

**Original authority: 148.700, RSMo 1982.*

12 CSR 10-10.070 Extension of Time to File Credit Unions and Savings and Loan Associations Tax Returns

PURPOSE: This rule clarifies the procedures for filing request for extensions of time to file for Credit Unions and Savings and Loan Associations tax returns.

(1) Reasonable extension of time to file under sections 148.610–148.710, RSMo is defined by the director of revenue to mean a period not to exceed one hundred eighty (180) days from the due date, April 15, for each taxable year. The extension request shall include either a copy of Extension of Time to File, Form 7004, filed with the federal government or the Missouri Application for Extension, Form 60. The request shall clearly state the reason for extending the filing date. The extension shall be granted only if it has been filed on or before the due date of the return. The extension shall be deemed granted unless denied in writing by the director of revenue. The extension may be denied or suspended at any time upon written notice to the applicant by the director of revenue.

(2) Any taxes not paid before the original due date shall bear interest computed in accordance with section 148.640, RSMo.

(3) The return shall be filed and all unpaid taxes plus interest shall be remitted on or before the last day of the extension.

AUTHORITY: section 148.700, RSMo 1986. Original rule filed Sept. 16, 1985, effective Dec. 26, 1985.*

**Original authority: 148.700, RSMo 1982.*

12 CSR 10-10.080 Multiple Assessments of Credit Institutions for a Single Year

PURPOSE: This rule clarifies that the director of revenue may issue multiple assessments against a taxpayer for a given period on separate issues.

(1) The director of revenue may issue multiple assessments against the taxpayer for a single taxable year pursuant to section 148.190, RSMo when the director determines, based on separate findings, that the correct amount of the tax is greater than that tax computed by the taxpayer. The director, upon making the determination, shall notify the taxpayer by certified mail. The director will state on each assessment the reason for which it is issued. The taxpayer may seek independent review of each determination of the director of revenue by the Administrative Hearing Commission.

(2) Example: The taxpayer files a return for the taxable year and remits an underpayment of the tax for the period. The director determines, based on the return and payment, that the correct amount of the tax is greater than that remitted by the taxpayer and issues an assessment for the underpayment. At a later date, an audit conducted by the Department of Revenue of the credit institution reveals additional findings based on separate issues not associated with the underpayment and the director determines that the correct amount of the tax is greater than that previously computed and based on these findings issues a separate assessment for the same taxable year. The taxpayer may seek independent review of each assessment by the Administrative Hearing Commission. The first assessment generated will be for the amount of the underpayment and will contain the language underpayment as the basis for the assessment. The second assessment for the same taxable period will be based on the audited findings and will contain the language additional audit findings as the basis for the assessment.

AUTHORITY: section 148.200, RSMo 1986. Original rule filed Sept. 16, 1985, effective Dec. 26, 1985.*

**Original authority: 148.200, RSMo 1945.*

12 CSR 10-10.090 Extension of Time to File Credit Institutions Tax Returns

PURPOSE: This rule clarifies the procedures for filing request for extensions of time to file for credit institution tax returns.

(1) Reasonable extension of time to file under sections 148.120–148.230, RSMo is defined by the director of revenue to mean a period not to exceed one hundred eighty (180) days from the due date, April 15, for each taxable year. The extension request shall include either a copy of Extension of Time to File,



Form 7004, filed with the federal government, or the Missouri Application for Extension, Form 60. The request shall clearly state the reason for extending the filing date. The extension shall be granted only if it has been filed on or before the due date of the return. The extension shall be deemed granted unless denied in writing by the director of revenue. The extension may be denied or suspended at any time upon written notice to the applicant by the director of revenue.

(2) Any taxes not paid before the original due date shall bear interest computed in accordance with section 32.065, RSMo.

(3) The return shall be filed and all unpaid taxes plus interest shall be remitted on or before the last day of the extension.

AUTHORITY: section 148.200, RSMo 1986.*
Original rule filed Sept. 16, 1985, effective Dec. 26, 1985.

**Original authority: 148.200, RSMo 1945.*

12 CSR 10-10.100 Multiple Assessments of Banking Institutions for a Single Year

PURPOSE: This rule clarifies that the director of revenue may issue multiple assessments against a taxpayer for a given period on separate issues.

(1) The director of revenue may issue multiple assessments against the taxpayer for a single taxable year pursuant to section 148.070, RSMo when the director determines, based on separate findings that the correct amount of the tax is greater than that tax computed by the taxpayer. The director, upon making the determination, shall notify the taxpayer by certified mail. The director will state on each assessment the reason for which it is issued. The taxpayer may seek independent review of each determination of the director of revenue by the Administrative Hearing Commission.

(2) Example: The taxpayer files a return for the taxable year and remits an underpayment of the tax for the period. The director determines, based on the return and payment, that the correct amount of the tax is greater than that remitted by the taxpayer and issues an assessment for the underpayment. At a later date, an audit conducted by the Department of Revenue of the banking institutions reveals additional findings based on separate issues not associated with the underpayment and the director determines that the correct amount of the tax is greater than that previously computed and based on these findings issues a

separate assessment for the same taxable year. The taxpayer may seek independent review of each assessment by the Administrative Hearing Commission. The first assessment generated will be for the amount of the underpayment and will contain the language underpayment as the basis for the assessment. The second assessment for the same taxable period will be based on the audited findings and will contain the language additional audit findings as the basis for the assessment.

AUTHORITY: section 148.100, RSMo 1986.*
Original rule filed Oct. 1, 1985, effective Dec. 26, 1985.

**Original authority: 148.100, RSMo 1945.*

12 CSR 10-10.110 Extension of Time to File Bank Tax Returns

PURPOSE: This rule clarifies the procedures for filing request for extensions of time for bank tax returns.

(1) Reasonable extension of time to file under sections 148.010–148.110, RSMo is defined by the director of revenue to mean a period not to exceed one hundred eighty (180) days from the due date, April 15, for each taxable year. The extension request shall include either a copy of Extension of Time to File, Form 7004, filed with the federal government or the Missouri Application for Extension, Form 60. The request shall clearly state the reason for extending the filing date. The extension shall be granted only if it has been filed on or before the due date of the return. The extension shall be deemed granted unless denied in writing by the director of revenue. The extension may be denied or suspended at any time upon written notice to the applicant by the director of revenue.

(2) Any taxes not paid before the original due date shall bear interest computed in accordance with section 32.065, RSMo.

(3) The return shall be filed and all unpaid taxes plus interest shall be remitted on or before the last day of the extension.

AUTHORITY: section 148.100, RSMo 1986.*
Original rule filed Oct. 1, 1985, effective Dec. 26, 1985.

**Original authority: 148.100 RSMo 1945.*

12 CSR 10-10.120 Delinquent Interest Rate for Insurance Premium and Retaliatory Taxes

PURPOSE: This rule provides guidance as to the interest rate applicable to delinquent insurance premium and retaliatory taxes.

(1) The delinquent interest computations for all quarterly payments and returns which are due under sections 148.310–148.460, RSMo will be calculated at a rate determined by section 32.065, RSMo as provided by section 148.375, RSMo and set out in 12 CSR 10-41.010. The delinquent rate will be computed for each month the return is late, or fraction of a month, until the time the tax liability is paid in full.

(2) Insurance companies which have paid delinquent interest, underpayment penalties for taxes due under sections 148.310–148.460, RSMo, or both, as required by section 148.461(1) RSMo, are entitled to a credit, refund, or both, for the difference in the higher rate charged under section 148.461(1), RSMo versus section 32.065, RSMo.

(A) Annual Delinquent Interest Rate.

Year	148.640	32.065	Refundable Difference
1985	18%	13%	5%
1984	18%	12%	6%
1983	18%	14%	4%

Note: Rates quoted are annual; to obtain monthly rates, divide the applicable percentage by 12.

(3) Claims for refunds must be filed within two (2) years from the date of payment in accordance with section 136.035, RSMo (refund statute) on forms prescribed by the director of revenue.

AUTHORITY: section 136.120, RSMo 1986.*
Emergency rule filed Oct. 17, 1985, effective Oct. 27, 1985, expired Feb. 24, 1986. Original rule filed Oct. 17, 1985, effective Jan. 26, 1986.

**Original authority: 136.120, RSMo 1945.*

12 CSR 10-10.125 Income Period

PURPOSE: This rule establishes the income period and taxable year upon which the bank franchise tax is based as set out in section 148.020, RSMo.

(1) The taxable year shall mean the calendar year in which the bank franchise tax is due.

(2) Income period shall mean the calendar year or portion of the year next preceding the taxable year.

AUTHORITY: section 148.100, RSMo 1986.*
Original rule filed March 2, 1987, effective Aug. 13, 1987.

*Original authority: 148.100, RSMo 1945.

12 CSR 10-10.130 Bank Franchise Tax

PURPOSE: This rule establishes a procedure for filing the bank franchise tax return as required under section 148.030, RSMo.

(1) For taxable years beginning after December 31, 1986, the bank franchise tax provided for in section 148.030, RSMo shall equal the sum of the following:

(A) An amount equal to one-twentieth (1/20) of one percent (1%) of the par value of the taxpayer's outstanding shares and surplus employed in the state, as computed under section 147.010, RSMo; and

(B) Seven percent (7%) of the taxpayer's net income for the preceding year, less the amount computed in subsection (1)(A) and less all taxes paid to Missouri and its political subdivisions during the relevant income period, as outlined in section 148.030.3., RSMo, including state and local sales and use taxes paid to sellers, vendors or Missouri, with respect to purchases of tangible personal property and the services enumerated in Chapter 144, RSMo. The net amount computed in this subsection cannot be less than zero (0).

(2) The taxpayer shall file a single bank tax return by April 15 of the taxable year.

(3) The amounts computed in section (1) shall be reported on the following forms:

(A) The computation in subsection (1)(A) shall be reported on Schedule BF and attached to the bank tax return; and

(B) The computation in subsection (1)(B) shall be reported on the bank tax return (DOR-INT-2).

(4) Example:

(A) \$100,000	(Value of shares and surplus) × 1/20 of 1%	= \$	50.00
(B) Net Income	= \$1,000,000.00 × 7%	= \$	70,000.00
	Less BF Tax	\$	-50.00
	Less Other Credits	\$	-100.00
			\$69,850.00
(A) + (B)	= Net Tax Due Per INT-2	\$	69,900.00

AUTHORITY: section 148.100, RSMo 1986.*
Original rule filed March 2, 1987, effective May 28, 1987. Amended: Filed Feb. 16, 1988, effective May 26, 1988.

*Original authority: 148.100 RSMo 1945.

12 CSR 10-10.135 Federal Income Tax Deduction

PURPOSE: This rule establishes a method for computing the federal income tax deduction under section 148.045, RSMo. The allowed deduction for federal income tax shall be computed using the method of accounting elected by the taxpayer for federal purposes.

(1) Separate Basis Taxpayer. A taxpayer that files a separate federal return shall be allowed a deduction equal to the actual tax paid or accrued during the income period to the United States. Cash basis taxpayers shall report prior year refunds as income in the year received. Accrual basis taxpayer shall report a change to a prior year by filing an amended return and adjust the federal tax liability.

(2) Consolidated Group. A taxpayer that is a member of an affiliated group of corporations, which files a consolidated federal income tax return, shall be allowed a deduction for federal income taxes paid or accrued during the income period, as follows:

(A) Cash basis. The allowed deduction for the current year shall equal the cash payments made by members of the affiliated group minus a previous year adjustment. The previous year adjustment shall equal the difference of the previous year cash payments less the total tax liability computed on federal form, Schedule J, for the taxpayer, as if a separate federal return had been filed. For example:

1986

Separate Basis Schedule J	\$100,000
Taxpayer cash payments	\$250,000
Taxpayer gets a FIT deduction of	\$250,000

1987

Taxpayer cash payments	\$300,000
Previous year adjustment	(\$150,000)
Taxpayer gets a FIT deduction of	\$150,000;

(B) Accrual Basis. The deduction shall equal the federal form, Schedule J, total tax liability as if a separate federal return had been filed. The taxpayer who is a member of an affiliated group of corporations shall include in gross income benefits received for a net operating loss or unused credits gener-

ated in the current period. In the event an affiliated group incurs a net operating loss carryback or a carryback of unused credits, income shall be increased by an amount equal to the member's separately computed share of the federal refund received from any carryback to consolidated return years, plus the amount of any federal refund received which results from a carryback to any member's separate return years. Income shall be increased by an amount equal to the federal refunds that would have been received if amended federal returns would have been filed by the taxpayer on a separate return basis. This refund could result from an net operating loss (NOL) carryback or a carryback of unused credits. For example:

Company	Taxable Income	FIT (Based on a 50% tax rate)
X	\$40,000	\$20,000
Y	\$40,000	\$20,000
Z	(\$20,000)	(\$10,000)
Cons. Group	\$60,000	\$30,000

Company X would get a \$20,000 Federal Income Tax (FIT) deduction.

Company Y would get a \$20,000 Federal Income Tax (FIT) deduction.

Company Z would add \$10,000 to its taxable income; and

(C) For income periods involving a change from the cash basis of accounting to the accrual basis of accounting, the allowed accrual deduction for the year shall be decreased by any refund or credit from the previous year or increased for any tax payment in the current year for the previous year. Overpayments to a member of an affiliated group shall be treated as a refund.

(3) This rule shall apply to the 1987 taxable year.

AUTHORITY: section 148.100, RSMo 1986.*
Original rule filed March 2, 1987, effective Aug. 13, 1987.

*Original authority: 148.100 RSMo 1945.

12 CSR 10-10.140 Interest, Additions to Tax and Penalty

PURPOSE: This rule establishes an effective period for computing interest, additions to tax and penalty as provided in section 148.062, RSMo.

(1) The interest, additions to tax and penalty provisions provided in section 148.062, RSMo shall be effective for all returns beginning with the taxable year 1987.

(2) The interest provisions shall apply as follows:

(A) If the tax is not paid by the due date, interest shall apply at a rate as established by section 32.065, RSMo;

(B) If the penalty or additions to tax are not paid within ten (10) days of notice and demand for them, interest will be imposed for the period from date of notice and demand to date of payment; and

(C) Any tax, interest, penalty or additions to tax which has been erroneously refunded shall bear interest as established by section 32.065, RSMo.

(3) The additions to tax provisions shall be applied in the following situations:

(A) If any return required under sections 148.010–148.110, RSMo is not filed by the due date, there shall be added to the amount of tax due, five percent (5%) per month, or fraction of a month, not to exceed twenty-five percent (25%); and

(B) If the estimated payment is not equal to ninety percent (90%) of the tax shown on the return for the taxable year, there shall be added to the balance due five percent (5%).

(4) The penalty provisions shall be applied in the following situations:

(A) If any part of deficiency is due to negligence or intentional disregard of rules (but without intent to defraud), penalty shall be calculated at the rate of five percent (5%) of the deficiency;

(B) If any part of deficiency is due to fraud, penalty shall be calculated at fifty percent (50%) of the deficiency; or

(C) If any person who, with fraudulent intent, shall fail to pay any tax or to make, render, sign or certify any return or supply any information within the time required, the person shall be subject to a penalty of not more than one thousand dollars (\$1000) which shall be added to any other amounts required to be imposed.

*AUTHORITY: section 148.100, RSMo 1986. *Original rule filed March 2, 1987, effective Aug. 13, 1987.*

**Original authority: 148.100, RSMo 1945.*

12 CSR 10-10.145 Refund of Overpayment of Bank Tax—Refund From Other County

PURPOSE: This rule establishes an effective date and period for which bank franchise tax refunds may be issued, as provided by sections 148.050, 148.062 and 148.076, RSMo.

(1) This rule shall only apply for the purpose of refunds of overpayments of taxes paid pursuant to section 148.030, RSMo.

(2) Credits will be allowed for credits approved by the director for taxable years prior to 1987.

(3) Interest will be allowed on any overpayments at a rate in accordance with section 143.811, RSMo if the overpayment is not refunded within one hundred twenty (120) days of the due date or date the return was filed, whichever occurs later.

(A) Interest shall be allowed on any overpayment resulting from the filing of an amendment of the tax by the taxpayer for taxable year 1987 and after that on or before the last day prescribed for filing of the return without regard for any extension of time at the rate established by section 143.811, RSMo.

(B) Interest shall be allowed on any overpayment where the overpayment resulted from filing of an amendment of tax by the taxpayer for taxable year 1987 and after that following the last date prescribed for the filing of the return at the rate of six percent (6%) per annum.

(C) No interest shall be allowed if the overpayment of tax is refunded within one hundred twenty (120) days after the last date prescribed or permitted by extension of time for filing the return.

(4) For purposes of this rule, the last day prescribed for filing shall be April 15 of the taxable year.

(5) Overpayments resulting from the calculation of tax in accordance with section 148.030.2(1), RSMo will be refunded from the General Revenue Fund, plus any applicable interest.

(6) Overpayments resulting from the calculation of tax in accordance with section 148.030.2(2), RSMo will be refunded if funds are available from the political subdivision(s) in which the institution is located. If funds are not available, the institution will be given a credit or it must apply for a refund of the overpayment from the political subdivision(s) in which the institution is located.

(7) All refunds or credits resulting from overpayments must be approved by the department before the refund or credit can be issued.

AUTHORITY: section 148.100, RSMo 1986. Original rule filed March 2, 1987, effective*

Aug. 13, 1987. Amended: Filed April 1, 1992, effective Sept. 6, 1992.

**Original authority: 148.100, RSMo 1945.*

12 CSR 10-10.150 Tax Credits on Bank Tax Return

PURPOSE: This rule establishes guidelines concerning allowable tax credits on the bank franchise tax return pursuant to section 148.030.3., RSMo.

(1) The following criteria shall be used to establish whether or not a tax credit may be claimed against the bank franchise tax, imposed by sections 148.010–148.110, RSMo, computed pursuant to section 148.030.3., RSMo:

(A) The payment must have been made to Missouri or a Missouri political subdivision;

(B) Payment must have resulted from a tax liability imposed by a government agency, as defined in subsection (1)(A) and cannot be a regulatory fee collected solely for the purpose of paying the cost of administering the taxing jurisdiction's laws; and

(C) The following should be used as a general guideline to determine if an exaction, required by subsection (1)(A), is an allowable tax credit or a noncreditable fee:

1. If the proceeds, paid as defined in subsection (1)(A), are collected for deposit into the general revenue account of the taxing jurisdiction, to raise revenue for the entity, then it is a tax and is an allowable tax credit; or

2. If the proceeds, paid as defined in subsection (1)(A), are collected primarily to cover the costs of the regulation of an activity, and which are then deposited with the regulatory agency, then it is a noncreditable fee.

(2) At all times the burden of establishing whether an exaction is an allowable tax credit or a noncreditable fee shall be on the taxpayer.

*AUTHORITY: section 148.100, RSMo 1986. *Original rule filed March 2, 1987, effective May 28, 1987.*

**Original authority: 148.100, RSMo 1945.*

12 CSR 10-10.155 Bank Tax/Sales Tax Credit

PURPOSE: This rule establishes the taxable year when the sales tax credits may be taken, in accordance with section 148.030.3., RSMo.

(1) Beginning with taxable year 1987, all state and local sales and use taxes paid by banks as purchasers to sellers, vendors or Missouri on purchases of tangible personal property and services enumerated in Chapter 144, RSMo shall be creditable against the bank tax imposed under section 148.030, RSMo.

(2) All state and local sales and use taxes, taken as a credit, will not be allowed as a deduction in computing taxable income.

AUTHORITY: section 148.100, RSMo 1986.*
Original rule filed March 2, 1987, effective Aug. 13, 1987.

*Original authority: 148.100, RSMo 1945.

12 CSR 10-10.160 Neighborhood Assistance Credit (NAC)

PURPOSE: This rule establishes the priority and method in which credits approved under Chapter 32, RSMo can be used.

(1) Effective October 1, 1990, any approved neighborhood assistance tax credits under Chapter 32, RSMo, including credits under sections 32.111 and 32.117, RSMo, shall apply in the following order, annually, until used in their entirety:

(A) The annual tax on gross premium receipts of insurance companies in Chapter 148, RSMo;

(B) The tax on banks as determined under section 148.030.2(2), RSMo;

(C) The tax on banks as determined in section 148.030.2(1), RSMo;

(D) The tax on other financial institutions in Chapter 148, RSMo;

(E) The corporation franchise tax in Chapter 147, RSMo;

(F) The state income tax in Chapter 143, RSMo; and

(G) The annual tax on gross receipts of express companies in Chapter 153, RSMo.

AUTHORITY: section 148.100, RSMo 1986.*
Original rule filed March 2, 1987, effective Aug. 13, 1987. Amended: Filed Feb. 11, 1991, effective July 8, 1991.

*Original authority: 148.100, RSMo 1945.

12 CSR 10-10.165 Method of Computing Federal Income Tax Deduction for Credit Institutions

PURPOSE: This rule establishes the method of computing the federal income tax deduction for credit institutions.

(1) Credit institutions using an accrual method of accounting to determine net income shall deduct their apportioned share of accrued consolidated federal income tax liability.

(2) Credit institutions using a cash basis method of accounting to determine net income shall deduct their apportioned share of consolidated federal income tax liability paid.

(3) The credit institution's apportioned share of consolidated federal income tax liability shall be determined by use of a fraction, the numerator of which is the taxpayer's taxable income computed as if a separate federal return were filed and the denominator of which is the total separate taxable incomes of the profit members of the consolidated group.

(4) Credit institutions which do not file a consolidated return for federal income tax purposes shall deduct accrued federal income tax liability, unless a cash basis method of accounting is used to determine net income.

AUTHORITY: section 148.200, RSMo 1986.*
Original rule filed Dec. 15, 1987, effective April 11, 1988.

*Original authority: 148.100, RSMo 1945.

12 CSR 10-10.170 Method of Computing Federal Income Tax Deduction for Credit Unions and Savings and Loan Associations

PURPOSE: This rule establishes the method of computing the federal income tax deduction for credit unions and savings and loan associations.

(1) Credit unions and savings and loan associations using an accrual method of accounting to determine net income shall deduct their apportioned share of accrued consolidated federal income tax liability.

(2) Credit unions and savings and loan associations using a cash basis method of accounting to determine net income shall deduct their apportioned share of consolidated federal income tax liability paid.

(3) The credit union's or savings and loan association's apportioned share of consolidated federal income tax liability shall be determined by use of a fraction, the numerator of which is the taxpayer's taxable income computed as if a separate federal return were filed and the denominator of which is the total sep-

arate taxable income of the profit members of the consolidated group.

(4) Credit unions and savings and loan associations which do not file a consolidated return for federal income tax purposes shall deduct accrued federal income tax liability, unless a cash basis method of accounting is used to determine net income.

AUTHORITY: section 148.200, RSMo 1986.
Original rule filed Dec. 15, 1987, effective April 11, 1988.

12 CSR 10-10.175 Personal Property Tax Credits—Definition, Calculation and Refund Agreement

PURPOSE: This rule clarifies the creditability of personal property taxes paid by banking institutions on personal property not held for lease or rental to others.

(1) Definition. Property taxes as used in this rule means property taxes on personal property not held for lease or rental to others.

(2) Subject to the conditions stated in section (3), property taxes paid (regardless of whether paid under protest) during the relevant income period to any Missouri political subdivision are allowable as credits against the bank tax imposed under section 148.030.2(2), RSMo. Credits shall be allowed even if the validity of the personal property tax assessments is challenged (by the taxpayer or by one (1) or more other banks) in an administrative or judicial proceeding and shall not subsequently be disallowed, even if the assessments are finally determined to be invalid.

(3) Credits shall be allowed against the bank tax as stated previously in section (2), subject to the following conditions on any bank tax return on which a bank claims credit against its section 148.030.2(2), RSMo bank tax liability:

(A) The bank shall irrevocably assign to the department any refund it may receive of property taxes paid for which it claimed credit on the return, to the extent of the amount determined according to the following formula: Section 148.030.2(2), RSMo bank tax liability for the taxable year without taking into account the credits for personal property taxes paid minus the actual section 148.030.2(2), RSMo bank tax liability for the taxable year, minus seven percent (7%) of the personal property taxes paid during the relevant income period;



(B) The bank shall irrevocably assign a proportionate share of any interest it actually receives on the refund;

(C) If a bank receives a refund of property taxes (or interest) which it previously assigned to the department pursuant to subsections (3)(A) and (B), the bank, within fifteen (15) days following receipt, shall pay the refund, interest, or both, over to the department to the extent of the assignment. The payment shall be accompanied by a separate computation schedule for each taxable year of the amount of the property tax refund and interest payable to the department;

(D) An assignment and agreement form, prescribed by the department, shall accompany claims for personal property tax credits and shall be attached to and filed as part of the original or amended bank tax return for any taxable year in which the credits are claimed; and

(E) Example: MoBank pays \$80,000 in personal property taxes under protest on December 31, 1988. Its section 148.030.2(2), RSMo bank tax for taxable year 1989, before taking into account credits for personal property taxes paid during the 1988 income period, is \$20,000. MoBank claims credits for personal property taxes paid and executes the required refund and interest assignment. In 1990, MoBank receives a refund of the \$80,000 in personal property taxes it paid in 1988, together with \$8000 in interest. MoBank must pay over to the department \$15,840, computed as follows:

\$20,000	(Bank tax without property tax credit)
0	(Bank tax with credit)
\$20,000	
\$ 5,600	(7% of \$80,000)
\$14,400	(Amount assigned to the department)
\$14,400	
÷ 80,000	
.180	(Proportion of total property tax refund assigned to the department)
\$ 8,000	
× .180	
\$ 1,440	(Amount of interest assigned to the department)
\$14,400	
+ \$ 1,400	
\$15,840	(Total due department)

(4) Credits for personal property taxes claimed by a bank which do not comply with section (3) shall be disallowed.

AUTHORITY: section 148.100, RSMo 1986.
Original rule filed Dec. 22, 1988, effective June 11, 1989.*

**Original authority: 148.100, RSMo 1945.*

12 CSR 10-10.180 Interest Earned by Banking Institutions From the Resolution Funding Corporation and the Financial Corporation

PURPOSE: This rule clarifies the taxability of interest earned by banking institutions from Resolution Funding Corporation and the Financial Corporation.

(1) Interest earned by banking institutions from the Resolution Funding Corporation and the Financial Corporation must be included as gross income pursuant to section 148.040.2., RSMo.

(2) The interest earned from the Resolution Funding Corporation and the Financial Corporation shall be reported during the relevant income period in which the interest is earned.

(3) The interest earned by banking institutions from the Resolution Funding and the Financial Corporations shall be reported as income pursuant to section 148.030.2(2), RSMo.

AUTHORITY: section 148.100, RSMo 1986.
Original rule filed April 1, 1992, effective Sept. 6, 1992.*

**Original authority: 148.100, RSMo 1945.*